

REMARKS

This application was filed with 21 claims. Claims 1-21 have been rejected. Claims 1-21 have been canceled. Claims 22-48 have been added. Therefore, Claims 22-48 are pending in the Application. Reconsideration of the application based on the new claims and arguments submitted below is respectfully requested.

The Examiner cited the following as Prior Art in rejecting those claims: Anderson, et al (US Patent Number 5,974,396), Kaplan (US Patent Number 5,963,916) and Bond, et al (US Patent Number 6,177,940). The Examiner made of record but did not rely upon the following Prior Art: Ramachandran, et al (US Patent Number 6,023,688), Roberts, et al, (US Patent Number 6,330,593), Larson (US Patent Number 5,539,635), Anderson, et al (US Patent Number 6,078,892) DeMartin, et al (US Patent Number 6,226,672), Eldering (US Patent Number 6,216,129), and Eldering (US Patent Number 6,298,348).

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected Claims 2-6, 10 and 21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Applicant has cancelled Claims 2-6, 10 and 21. This rejection is now moot and should be withdrawn.

Claim Rejections - 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)

Claims 1-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Anderson, et al (5974396). Claims 4-6, 8-11, 13, 15 -17, and 19-21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of Kaplan (5,963,916). Claim 18 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of Bond, et al (6,177,940). In response, Applicant has cancelled Claims 1-21 without prejudice. Accordingly, these rejections should be withdrawn.

New Claims 22-48

Applicant respectfully submits that new claims 22-48, added to this application by this response and amendment, are not anticipated by or made obvious in view of any of the references cited by the Examiner because all of these claims include limitations that are not taught or suggested by these references.

More specifically, Applicant submits that independent Claim 22, which is directed to a method for collecting demographic information and preference information, and independent Claim 30, which is directed to a demographic information and preference information analysis apparatus, both teach the interactive collection of subjective preference information comprising the consumer user's familiarity, enjoyment, attraction toward and fatigue with a selected pre-recorded music product. None of the references cited by the Examiner teach this limitation. Anderson fails to teach providing interactive access for a consumer user to a database

for the collection of preference data. In the Anderson device, consumer user information is input into the data base by a point-of-sales (POS) device. POS devices are limited to recording objective consumer behavior such as the purchase of product and are not interactive with the consumer user. Additionally, Anderson does not teach collection of consumer user's subjective preference data. Preference data, as described in Anderson, is limited to preferences inferred from consumer transaction records and from demographic data input from consumer application forms. Kaplan teaches providing interactive access for a consumer user to a database having pre-recorded music product information allowing preview of music before purchasing. However, Kaplan does not teach collection of preference information comprising the consumer user's familiarity and recognition of the selected pre-recorded music product and consumer user's source of exposure to the selected pre-recorded music product. Kaplan teaches a music sampling apparatus that gathers a consumer rating of a music sample after playing that sample to the consumer. This is a teaching away from the present invention in that the present invention measures the persistence of the consumer user's recognition and subjective preferences for a pre-recorded music product. Sampling of the music product during the process of the gathering of consumer preference information would defeat an important feature of the present invention. Additionally, Kaplan, Anderson and Bond do not teach providing selective interactive access for client users to search selected preference information and demographic information corresponding to selected product information and providing selective interactive access for consumer users to search selected product information.

The prior art does not teach this differentiation between users. Claims 23-29 are dependent claims that depend, either directly or indirectly, on Claim 22 and include all of its limitations. As a result, these claims are patentable for the same reasons as Claim 22. It is also noted that Claims 26-29 teach additional limitations that are not taught or suggested by any of the cited references. Thus, these claims are patentable for this reason as well. Claims 31-34 are dependent claims that depend, either directly or indirectly, on Claim 30 and include all of its limitations. As a result, these claims are patentable for the same reasons as Claim 30. It is also noted that Claims 33-34 teach additional limitations that are not taught or suggested by any of the cited references. Thus, these claims are patentable for this reason as well.

Additionally, Applicant submits that independent Claim 35, which is directed to a method for preference ranking pre-recorded music products, teaches ranking the pre-recorded music products by a weighted sum of selected numerically valued preference parameters. None of the references cited by the Examiner teach this limitation. Claims 36-41 are dependent claims that depend, either directly or indirectly, on Claim 35 and include all of its limitations. As a result, these claims are patentable for the same reasons as Claim 35. It is also noted that Claims 36-41 teach additional limitations that are not taught or suggested by any of the cited references. Thus, these claims are patentable for this reason as well.

Finally, Applicant submits that independent Claim 42, which is directed to a method for collecting preference information from a consumer user for a pre-recorded music product, teaches automatically assigning to a pre-recorded music product a

release status determined by comparing the lapsed time since release of the product with a selectable aging value and, then, automatically re-evaluating and reassigning release status on a selectable periodic basis. None of the references cited by the Examiner teach this limitation. Claims 43-48 are dependent claims that depend, either directly or indirectly, on Claim 42 and include all of its limitations. As a result, these claims are patentable for the same reasons as Claim 42. It is also noted that Claims 43-47 teach additional limitations that are not taught or suggested by any of the cited references. Thus, these claims are patentable for this reason as well.

Applicant has commented on some of the distinctions between the cited references and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and Applicant hereby reserves the right to present additional distinctions as appropriate. Furthermore, while these remarks may employ shortened, more specific, or variant descriptions of some of the claim language, Applicant respectfully notes that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions the Commissioner to extend the time for responding to the January 16, 2003 Office Action for 1 month, from April 16, 2003 to, May 16, 2003. A check in the amount of \$430.00 is enclosed for the \$55.00 extension fee plus \$375.00 for the additional claim fees.

The Commissioner is authorized to charge any deficiency, or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,


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CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this Response and Amendment, and a check in the amount of \$430.00 payable to the Commissioner of Patents and Trademarks, are being deposited with the U.S. Postal Service as first class mail on May 16, 2003, in an envelope addressed to:

Mail Stop Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


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Date 